

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X

ISAIAH GERAFINO, LENFORD
JOHNSTON, SARA FAUST, SUKOL
PHAIROJ, CHELSEA LINDMAN,
VIRGINIA WORLEY, ROSALINA
WALTER and THOMAS CAMPBELL on
behalf of themselves and all others similarly
situated,

Plaintiffs,

v.

CIVIL ACTION NO: 07-cv-06729 (RJS)

JEAN-GEORGES ENTERPRISES, LLC;
JEAN-GEORGES MANAGEMENT LLC;
PERRY STREET PROJECT LLC;
TRIOMPHE RESTAURANT CORP. d/b/a
JEAN GEORGES RESTAURANT and
NOUGATINE; ORIGINE LLC d/b/a JOJO
RESTAURANT; SPICE MARKET LLC;
LEONARD STREET LLC d/b/a 66
RESTAURANT; JEAN-GEORGES
VONGERICHTEN and JOHN DOES 1-10

Defendants.

----- X

DECLARATION OF KATHRINA MONTEVIRGEN

I, Kathrina Montevirgen, under penalty of perjury, declare as follows:

1. I give this Declaration based on my personal knowledge for use in the proceeding specified above. I am over the age of 21 and competent to give this Declaration.
2. I am currently employed as a Maitre d' at Jean-Georges Restaurant ("Jean-Georges").
3. I have been employed by Jean-Georges since January 2003 in various capacities.
4. I was interviewed and hired as a server in late January 2003 by the General Manager of Jean-Georges, then Patrick Gioannini.

5. Jean-Georges has two dining rooms, the main dining, typically referred to as "Jean-Georges" and the informal bar dining room, referred to as "Nougatine." The only major difference between the two dining rooms was that only Jean-Georges utilized a captain in its service.

6. At Jean-Georges, each section of the main dining room is assigned a captain, server, busser, and runner. The captain serves as the more "senior" server, and typically takes a table's initial order and performs tableside carving. A server typically assists with taking orders, serving food and beverages, and setting and clearing all silverware for the table. The busser and runner typically assist with serving bread, water, bringing food and beverages to the table, and clearing the table.

7. As a server, I was assigned on a nightly basis to a section of the dining room. Together with the captain, busser, runner, and Maitre d', I interacted with guests, assisted with taking orders, served food and beverages, set and cleared the silverware for each table, and performed other functions to ensure the overall success of my section, including bussing tables.

8. As a server, I was paid an hourly wage, which was supplemented by my participation in the tip pool.

9. Throughout my employment as a server, the tips at Jean-Georges were pooled and distributed among the employees who were actively engaged in table service. Each position is assigned a certain number of "points" in the pool, which reflected the level of the position and the depth of guest interaction typically required by that position. Each point reflects an equal share in the pool, and the total tips were apportioned among the participating employees accordingly.

10. As a server, I received a total of five points in the tip pool, which determined my share of the pooled gratuities at the end of each service.

11. In October of 2003, I became a captain at Jean-Georges. As a captain, I performed many of the same duties as I did as a server, however, as the more "senior" server of my section, I would typically take a table's initial order and perform the tableside carving.

12. As a captain, I continued to earn an hourly wage, supplemented by my share in the tip pool. As a captain, I received seven "points" in the pool.

13. In the spring of 2006, I became a Maitre d' at Jean-Georges.

14. As a Maitre d', I greet and seat guests, and perform guest service in concert with the captains, servers, bussers and runners in all sections to ensure that the service runs smoothly.

15. During the service, I spend a significant amount of my time on the dining room floor. As I am instructed to do by my General Manager, I "touch" every guest table in the dining room each evening. To that end, I greet guests, take orders and serve food and beverages on a daily basis. I will often lend a hand bussing tables when we are busy.

16. The captains, servers, bussers and runners are assigned to specific sections within the dining room. My presence is critical because I monitor the overall dining room service and determine where my assistance is most urgently needed, whereas the captains, servers, bussers and runners are supposed to focus on their particular table(s).

17. At the direction of the General Manager, employees involved in the dinner service are instructed to take a 30 minute meal break between the lunch and dinner seating. Immediately prior to the lunch and dinner service, all dining room staff meet with the General Manager to discuss any special events or important guests anticipated during the upcoming service, menu changes, and other general matters relating to the service.

18. The General Manager at Jean-Georges has exclusive authority to make decisions with respect to hiring, firing and/or disciplining employees. I report any incidents to the General Manager, who then takes action directly with the employee. The General Manager typically works 9:00 a.m. to 9:00 p.m., and during those hours, is generally on the dining room floor throughout each service.

19. The Assistant General Manager, who is not in the tip pool, initially sets the schedule. Each schedule is reviewed and approved by the General Manager prior to posting. Scheduling changes are handled among the employees.

20. The General Manager handles all payroll matters.

21. I am making this Declaration voluntarily. I have reviewed this Declaration carefully and fully understand its contents. I have not received any threat, express or implied, concerning my employment, potential loss of employment, or loss of any employment benefits whatsoever to compel me to make this Declaration. I have not received any promises of employment or other benefits to persuade me to make this voluntary Declaration.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: July 2, 2008
New York, New York

Kathrina Montevirgen
Kathrina Montevirgen